



UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOSEPH R. CALLOL and W. STAN WILSON

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Appeal No. 2006-3287  
Application 10/022,996

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NOTIFICATION OF NON-COMPLIANCE REGARDING ORAL  
HEARING

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This application was received electronically at the Board of Patent Appeals and Interferences on August 26, 2006. On September 19, 2006, a Board of Patent Appeals and Interferences Docketing Notice was mailed to the appellants.

An examination of the Image File Wrapper (IFW) reveals that the appellants filed an Appeal Brief on February 6, 2006. On page 2 of the Appeal Brief, appellants included a section requesting an oral hearing in connection with the appeal.

37 CFR § 41.47 states, in part:

(b) If appellant desires an oral hearing, appellant must file, as a separate paper captioned “REQUEST FOR ORAL HEARING,” a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner’s answer or supplemental examiner’s answer [emphasis added].

Since the appellant’s request for oral hearing was not filed in a separate paper as required by 37 CFR § 41.47, the appellant’s request for an oral hearing cannot be granted.

If the appellants still desires an oral hearing, a petition under 37 CFR § 1.183 must be filed within two weeks of the mailing date of this notice.

Such a petition must include:

(1) a request to suspend the separate paper requirement of 37 CFR § 41.47(b);

(2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived; and

(3) be accompanied by the petition fee set forth in 37 CFR § 1.17(f).

This two week time period for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a). The failure to timely file a petition

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under 37 CFR §1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).<sup>1</sup>

By Order of the:

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
DALE M. SHAW  
Deputy Chief Appeals Administrator  
(571) 272-9797

DMS:gjh

FULWIDER PATTON  
6060 CENTER DRIVE, 10<sup>TH</sup> FLOOR  
LOS ANGELES, CA 90045

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<sup>1</sup> If the appellant decides not to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.